

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

JEFFREY W. FUJISAKA, #2089545

VS.

DIRECTOR, TDCJ-CID

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CIVIL ACTION NO. 4:17cv137

ORDER OF DISMISSAL

The above-entitled and numbered civil action was referred to United States Magistrate Judge Christine A. Nowak. The Report and Recommendation of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Petitioner, with the assistance of counsel, filed objections.

The Magistrate Judge recommended the petition for writ of habeas corpus be dismissed with prejudice. In his objections, Petitioner first re-urges his argument that section 43.25(b) constitutes a form of constitutionally protected speech. Petitioner does not cite to any authority, but continues to support his position by analogy. He fails to show the Report is incorrect.

Petitioner also argues that section 43.25(b) is not narrowly tailored and restricts a substantial amount of protected speech. He contends that: (1) it prohibits inducing legal sexual conduct; (2) it interferes with the parent-child relationship; (3) most of the activity prohibited is criminalized by other statutes; (4) United States Supreme Court precedent indicates that the portion of the statute prohibiting sexual performance, when that person is over seventeen years of age, violates the first amendment; and (5) the reasoning adopted in the Report has been explicitly rejected by the United States Supreme Court. These objections, however, are reassertions of claims raised in his § 2254 petition and, as the Magistrate Judge found, are without merit.

In sum, Petitioner fails to provide a valid basis for his objections, or demonstrate how the Magistrate Judge's recommendation is incorrect. After reviewing the Report and Recommendation and conducting a *de novo* review of Petitioner's objections, the Court concludes the findings and conclusions of the Magistrate Judge are correct, and adopts the same as the findings and conclusions of the Court.

Accordingly, it is **ORDERED** the petition for writ of habeas corpus is **DENIED**, and the case is **DISMISSED** with prejudice. A certificate of appealability is **DENIED**. It is further **ORDERED** all motions by either party not previously ruled on are hereby **DENIED**.

SIGNED this 24th day of March, 2020.



AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE